

**REGULAR STATE BANKING BOARD MEETING  
HELD BY CONFERENCE CALL  
OFFICE OF THE COMMISSIONER  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
2000 SCHAFER STREET, SUITE G  
BISMARCK, NORTH DAKOTA**

**May 8, 2008**

The regular meeting of the State Banking Board was held in the Office of the Commissioner, Department of Financial Institutions, 2000 Schafer Street, Suite G, Bismarck, North Dakota. Chairman Karsky called the meeting to order at 9:03 a.m., Thursday, May 8, 2008, by conference call.

MEMBERS PRESENT: Timothy J. Karsky, Chairman (*Office*)  
Ron Braseth, Member (*Mayville*)  
Bill Daniel, Member (*Bismarck*)  
Lorren Henke, Member (*Wishek*)  
Launa Moldenhauer, Member (*Bismarck*)  
Roger Monson, Member (*Finley*)  
Anita Quale, Member (*Watford City*)

MEMBERS ABSENT: None

ALSO PRESENT: Robert J. Entringer, Secretary (*Office*)  
Douglas D. Grenz, Chief Examiner – Banks (*Office*)  
Aaron Webb, Assistant Attorney General (*Office*)

**APPROVAL OF MINUTES**

Chairman Karsky indicated the Board received copies of the minutes of the regular meeting held on March 13, 2008.

**It was moved by Member Quale, seconded by Member Braseth, and unanimously carried, to approve the minutes as presented.**

## **ARTICLES OF AMENDMENT FOR PERPETUAL EXISTENCE**

Assistant Commissioner Entringer indicated the Department received Articles of Amendment for perpetual existence from the following banks: McIntosh County Bank, Ashley; American Bank Center First, Bismarck; Citizens State Bank – Midwest, Cavalier; Farmers State Bank of Crosby, Crosby; American Bank Center, Dickinson; Union State Bank of Fargo, Fargo; Bank of Glen Ullin, Glen Ullin; Lincoln State Bank, Hankinson; McVile State Bank, McVile; The Citizens State Bank at Mohall, Mohall; Stock Growers Bank, Napoleon; First State Bank of Sharon, Sharon; Scandia American Bank & Trust, Stanley; Strasburg State Bank, Strasburg; and Farmers & Merchants State Bank of Tolna, Tolna.

Assistant Commissioner Entringer indicated we have less than 20 banks that need to amend their Articles of Amendment to provide for perpetual existence, and hopefully that will be accomplished by yearend.

**It was moved by Member Moldenhauer, seconded by Member Monson, and unanimously carried to approve the Amendment to the Articles of Incorporation to provide for perpetual existence of the above-listed banks.**

## **2008 ANNUAL ASSESSMENT POLICY FOR STATE-CHARTERED BANKS AND TRUST COMPANIES**

Chairman Karsky referred the Board to the Memorandum from Joan Becker, Director of Administration, noting that at the end of June 30, 2008, the Department is projecting a carryover of approximately \$213,000. Chairman Karsky continued that last year the Board was able to give a credit to the banks on their assessment; however, the projections this year show that the Department will have a carryover of approximately \$187,000 at the end of the biennium. Chairman Karsky indicated if that amount gets larger we would probably give a credit next year. Chairman Karsky indicated nothing has changed as far as the percentages of allocation for banks, credit union, and trust companies; adding that the banks only pay the costs for the overhead related to regulation of the banks.

Member Monson inquired as to the budget item for salaries and asked if that was going to allow the Department to keep examiners for a longer period. Chairman Karsky indicated the Department did lose a good employee this week; however, it was more because he wanted to utilize his CPA certificate and was

taking the position of a CFO of a company. Chairman Karsky continued that there is room in the salary line item and probably do need to adjust salaries upward; adding that the budget for the next biennium is now being worked on and we are projecting to further increase salaries, provided the Legislature approves our budget.

**It was moved by Member Braseth, seconded by Member Monson, and unanimously carried to approve the Annual Assessment Policy for State-Chartered Banks and Trust Companies.**

## **LPO/DPO RULES**

Chairman Karsky indicated he wants to discuss the issue of a Loan Production Office (LPO) because they have become very popular, especially when a bank wants to establish a facility in a community it seems the first step is to establish a LPO in anticipation of a facility application.

Chairman Karsky indicated recently Assistant Commissioner Entringer had received some information from a North Dakota bank regarding activities at a LPO and provided guidance from the Office of the Comptroller of the Currency. Assistant Commissioner Entringer continued that the guidance dealt with the fact that you cannot disburse loan proceeds at a LPO, but provided guidance as to acceptable methods for a bank to disburse its loan proceeds. Assistant Commissioner Entringer stated the information received from the OCC indicated the following examples would not be considered disbursement from the LPO: (1) if a bank were to issue a Cashier's Check to a title company who then closed the loan for the bank and disbursed the loan proceeds; (2) a bank establishing a correspondent relationship in the community where the LPO is located and then disbursing loan proceeds by issuing a check drawn on its correspondent; (3) if the bank that established the LPO has an affiliate bank and they issue a Cashier's Check drawn on the affiliate bank at loan closing.

Chairman Karsky indicated another change identified is that approval of a loan cannot occur at a LPO; however, apparently the OCC has interpreted approval of a loan to be a back office activity.

Assistant Commissioner Entringer continued that the OCC has indicated if the loan officer follows established policy and makes a loan within the lending

authority of that officer, they are not approving loans at the LPO, concluding that that is a back office activity. Assistant Commissioner Entringer stated if the loan exceeds the loan authority of the loan officer, it would have to go to the Loan Committee; therefore, it is a very liberal interpretation.

Chairman Karsky stated in an effort to stay competitive with national banks he is asking the Board to consider whether they are in sync with the OCC's interpretation and, if so, the Department would draft rules for their consideration to change some of the limitations that we place on LPOs.

Member Quale stated she felt state banks should be allowed the same activities as national banks and felt we should proceed. Members Monson, Braseth, and Henke agreed activities permitted for national banks should also be allowed for state banks.

Chairman Karsky indicated we have discussed Deposit Production Offices several times in the past, noting that an out-of-state national bank can establish a DPO in North Dakota; therefore, we should take another look at this and possibly publish rules for the state-chartered banks. Chairman Karsky indicated the last time this issue was discussed there was opposition from banks in North Dakota and that the only people being penalized are the state-chartered institutions because it is permissible for a national bank.

Member Quale asked if there was a DPO out-of-state if there would be the age limitation requirement to merge it. Chairman Karsky indicated the age limitation applies to a facility rather than a DPO. Chairman Karsky added that the OCC permits a national bank to have an LPO and DPO within the same facility and this is not considered a branch.

Member Moldenhauer indicated she felt state-chartered banks should be allowed to do the same thing.

Chairman Karsky indicated the Department will draft rules for the Board's consideration at the next meeting, adding that these LPOs and DPOs are becoming a larger issue especially in states that do not authorize de novo interstate branching.

Member Monson suggested the Department propose draft language for both LPOs and DPOs.

Chairman Karsky indicated the Board can look at this and take time to decide what to do. He indicated if the decision is to proceed the Department would go through the rulemaking process which would afford everyone a chance to comment.

## **STARION FINANCIAL, BISMARCK**

Chairman Karsky indicated the Department received notice from Starion Financial that it closed its branch at 500 Burlington Street, Mandan, effective April 30, 2008.

## **TREASURY RESTRUCTURING PROPOSAL**

Member Monson asked Chairman Karsky about the Treasury's proposal for restructuring regulatory scheme for banks.

Chairman Karsky indicated at the CSBS fly-in in March they met with Congressman Barney Frank, who indicated that this administration has not passed any major legislation for banks in seven years and now a lame duck President comes in with sweeping legislation to revamp the regulatory system. Congressman Frank had indicated this legislation will not get any traction and will not pass. Chairman Karsky indicated the blueprint talks about eliminating one or two federal agencies, taking away some power from the Federal Reserve, and possibly eliminating the Office of Thrift Supervision; and also virtually eliminating the state charter so that eventually all banks would come under the supervision of the federal banking authority. Chairman Karsky stated he did not think this was going to gain any momentum. Chairman Karsky added within the blueprint the insurance companies would have the option for a federal charter instead of simply going to the states to get their authority to do business. Chairman Karsky indicated he feels this is a power struggle and the problem is because of the fallout from the subprime mortgage loan crisis people want to do something, but the issue is that North Dakota state-chartered banks did not get into the subprime lending business.

Member Henke asked where the regulation is for the mortgage brokers at the state level, and Chairman Karsky stated it is with this Department. Chairman Karsky added that since the crisis began the Department has lost a number of licensees due to bankruptcy, adding he felt we do a very good job in the licensing

process by making sure the applicants have sufficient equity. Chairman Karsky stated he is hopeful that within a short period of time we will begin examining these companies the same as banks; adding these companies need to be examined regarding federal laws and the states are going to have to pick up the slack and enforce these federal laws. Chairman Karsky stated legislative changes need to be made to give the Department the authority to enforce federal law. Chairman Karsky indicated we did see mortgage companies in North Dakota making alternative mortgages, but those mortgages were sold off instantly to large banks like Chevy Chase Bank, who then packaged those loans and sold them off to Wall Street. Chairman Karsky stated there is a lot of blame to go around for the subprime crisis, including Wall Street who had a significant appetite for these types of mortgages.

Member Henke stated he understood that but wondered if these companies were held to the same compliance standards as banks are. Chairman Karsky stated they are; however, with the low doc and no doc loans those standards were significantly less and those loans were permissible for banks as well as brokers. Chairman Karsky indicated there were some imprudent lending activities that occurred with 100% financing or second mortgages to provide the down payment, but there really was nothing illegal with what the brokers did. Chairman Karsky added if the states were to apply state predatory lending standards they would not apply to subsidiaries of national banks or federal thrifts because the OCC or the OTS would preempt those laws.

The Board went into closed session at 9:35 a.m.

---

Timothy J. Karsky, Chairman

---

Robert J. Entringer, Secretary